

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

ROSE L. FREEMAN AND JOHN SCOTT

PLAINTIFFS

v.

Civil No. 06-3009

RON KINCADE, In his Official Capacity
as Boone County, Arkansas, Prosecutor
and in his Personal Capacity;
WES BRADFORD, In his Official Capacity
as Boone County, Arkansas, Deputy
Prosecutor and in his Personal Capacity;
DANNY HICKMAN, In his Official Capacity
as Boone County, Arkansas, Sheriff and
in his Personal Capacity;
JAMES D. WESSELLS, In his Official Capacity
as Boone County, Arkansas, Deputy Sheriff/
Investigator and in his Personal Capacity;
JAMES L. WHITE, In his Professional Capacity
as Harrison Arkansas Daily Times Staff and
in his Personal Capacity;
D. JEFF CHRISTENSON, In his Professional
Capacity as Harrison Arkansas Daily Times
Publisher and in his Personal Capacity

DEFENDANTS

O R D E R

Now on this 19th day of October, 2006, comes on for consideration **Plaintiffs' Motion To Strike Defendants Out Of Time Filings Identified As Documents #38, 39, And 40** (document #41).

Plaintiffs ask the Court to strike the Motion For Summary Judgment filed by separate defendants Hickman and Wessels because it was filed two days after the deadline for such motions established in the Final Scheduling Order. The Court declines to strike this motion, finding it only one day late by the rules of counting time as set forth in **F.R.C.P. 6**, in that October 8, 2006 (the deadline for filing dispositive motions), fell on a Sunday. No prejudice to plaintiffs could possibly accrue because of this brief delay, and if

defendants' motion should prove to have merit, a trial as to the issues therein raised, with its attendant expenses, could be avoided. Thus it behooves this Court to take up defendants' motion on its merits. Plaintiffs' motion will, therefore, be denied, and plaintiffs will be allowed ten (10) days from the date of this Order to respond to the Motion For Summary Judgment.

IT IS THEREFORE ORDERED that **Plaintiffs' Motion To Strike Defendants Out Of Time Filings Identified As Documents #38, 39, And 40** (document #41) is **denied**.

IT IS FURTHER ORDERED that plaintiffs are allowed ten (10) days from the date of this Order to respond to the Motion For Summary Judgment of separate defendants Hickman and Wessels.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE